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Freedom of Conscience
Tensions between the State and religious minorities
in regards to family issues

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personnel. This has led to visits by national education agents to parents belonging to minorities of religion or belief whose children were doing “at-home” correspondence courses delivered by State recognized bodies. The national education agents were checking for any ideological or religious motivation behind the choice of the parents to take their children out of the regular school system.

Unfortunately, this kind discriminatory paranoia has been going on in France for dozens of years. It is certainly contrary to various recommendations made by various authorities in charge of human rights at European and international level. For example, in her report, following an official visit to France on 18-29 September 2005, Asma Jahangir, the United Nations Special Rapporteur on Freedom of Religion or Belief, noted with regards to “new religious movements or communities of belief”:

108. However, she is of the opinion that the policy and measures that have been adopted by the French authorities have provoked situations where the right to freedom of religion or belief of members of these groups has been unduly limited. Moreover, the public condemnation of some of these groups, as well as the stigmatization of their members, has led to certain forms of discrimination, in particular vis-à-vis their children.

The UN Rapporteur made the following recommendations:

112. The Special Rapporteur urges the Government to ensure that its mechanisms for dealing with these religious groups or communities of belief deliver a message based on tolerance, freedom of religion or belief and on the principle that no one can be judged for his actions other than through the appropriate judicial channels.

113. Moreover, she recommends that the Government monitor more closely preventive actions and campaigns that are conducted throughout the country by private initiatives or Government-sponsored organizations, in particular within the school system in order to avoid children of members of these groups being negatively affected.

Clearly, this advice was not taken on board by the French government. As recently as 9 January 2013, the Director of Criminal Affairs of the French Minister of Justice, Ms. Marie-Suzanne le Queau, when officially interrogated by the French Senate, declared:

“We sometimes had to institutionalize children because they had no other parents than their father or mother and they belonged to a sect.”

This statement demonstrates that in France, you can lose the custody of your own children just because you belong to a religious minority targeted as a “sect”.

Some examples:

EIFRF has been made aware of various cases of stigmatization and discrimination in family matters based on parents belonging to religious minorities. Each of them have been verified and authenticated. Here are four examples covering a number of years:

- On the 15th April 2013, the newspaper “La Dépêche” tells the story of a father who was forbidden to see his son solely because of his religious beliefs. The father, Richard Dray is 45 years old and an Orthodox Jew. After divorcing, Richard Dray had custody of his 12 year old son at weekends. The son started to have behavioral problems and was sent to psychologists for further evaluation. They in turn decided to place him in an institution. Richard asked for his son to be placed in a private institution and went before a judge to request this, who, seeing him with his kippah and his long beard, decided to remove his parental authority altogether, stating: *“If you want to live like that, go live in Jerusalem.”*

Richard still retained a right of access to his son. However, the social services placed the child in a home without telling the father where he was located. Eventually the father found out where he had been placed and called the institution to talk to his son. The son told his father over phone that he misses him and is sad. The father answers *“do not worry, everything that happens to us on earth is a test sent by God that must be overcome”*. The social services, who were listening to the conversation, then forbade the father to approach his son because of these so called “fundamentalists words”, adding that he should not talk about God in 2013 to a 12 years old child and that it was contrary to their educational principles. It is now three weeks later and Richard still has no news of his son.

- We also had a report of a complaint concerning a family belonging to a religious minority. In November 2011, their son, Tom, had to attend a course in his school about “sects”. In that course, which lasted one hour, the religious minority to which his parents belonged was named and depicted as dangerous and practicing mental manipulation. Tom did not say anything during the course but afterwards went to see the teacher and politely told him that what he said was not true about the religion of his parents and that it should be respected as any other religion. The teacher became angry and told Tom that he should not follow his parents in their “sect”. Tom did not answer and left. On the 23 February 2012, the senior education advisor and the Director of the school called Tom to a hearing. They asked him why he went to see his professor at the end of the course on “sects”. Tom told them what happened. They then got angry with him and forbade him to repeat that the religious minority of his parents was a religion, “as it is a sect”. They kept him for a further 30 minutes, telling him that he would not be allowed to leave until he said that the religion of his parents was a “sect”. The child did not bow under pressure. The parents filed a complaint which is still ongoing, but the first defense of the school was to say that they were following the instructions of the Ministry of National Education.

- Another example is the case of a French Medical doctor who had a center for drug addicts, which accepted teenagers. His center had great results, but a defamation campaign was launched by a French “anti-sect” association (an association funded by the French government), that spread the word that the doctor belonged to a Hindu ‘sect’. This rumor was disseminated throughout the entire region in which he lived and it finally came to the attention of the Departmental Directorate of Health and Social Affairs. This Directorate then decided to close the center for this reason alone. The violence of this defamation campaign and the actions of the Department of Health and Social Affairs generated such suffering for the doctor that he committed suicide.

- One more history is that of a family of Christian believers, a Christian movement which had been reported as a 'sect' in a list created by some French parliamentary members in 1996. In 2002, the son, a nine year old boy, was diagnosed with leukemia. The mother was a medical doctor herself. She and her husband decided to explore all possible solutions that could heal their son with the best results. They made contact with several specialists in France and Germany in order to see what treatment they were going to choose to save him. After six days, they decided to take him to hospital and spent the night in hospital near their son and then went back home in the early morning, leaving their son with the hospital doctors. When they arrived home they found the police waiting for them saying that they had been "alerted" that there was a child that needed to be taken to hospital.

The parents did not really understand why the police were there and answered that their son was already at the hospital. The police then left their home.

One month later, they were questioned by police. They had been "denounced" by a "friend" for having kept their son at home for six days before taking him to hospital, **"because they were member of a sect"**. When arriving at the police station, they were immediately separated and taken into custody. For the previous month they had spent day and night with their son in the hospital. His health was deteriorating, yet they were held in custody by the police for three days and nobody told the son why his parents were suddenly not visiting him. The parents, in custody, asked for news of their son but were not given any.

They also had two small girls who were at home without any news from their parents.

The police interrogated the parents about belonging to a "sect" and why they waited for six days after the diagnosis of leukemia before taking their child to hospital. When they went to the toilet, they were told door had to stay open, in full view of the policemen. The policemen also made derogatory remarks about their religious beliefs.

After being held in custody for three days, the parents were indicted by a Judge of Instruction and released by the police. The health of their son had deteriorated drastically. The parents were then put under the stress of investigation whilst also having to take care of their two small daughters and taking turns to watch over their son at the hospital. All their friends were interrogated by the police, as were they themselves, many times. The Judge of Instruction then decided that she should take the two daughters away from their parents because they belonged to "a sect". A "Child Judge" was alerted by the Judge of Instruction who then summoned the daughters to a hearing as well as the dying son who was in the hospital. Fortunately, the Child Judge understood this situation and immediately took measures to release the family and end that aspect of the case. She apologized to them for the horrible treatment they have had to suffer.

Unfortunately, the Judge of Instruction decided to continue the criminal investigation into the parents. In February 2003, their son died at the hospital whilst the criminal investigation was still ongoing. The case finally went to court and the parents were finally found to have committed no error with regards to their son and it was stated that

the whole case had been the most “suffering” case the judge had ever seen in her life, apologizing again for the treatment suffered by this family.

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Freedom of Conscience: Tensions between the State and religious minorities in regards to family issues

Marco Ventura
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KU Leuven

Reflections on religious freedom, state neutrality, public education, minors and parental rights in view of the meeting with some members of the Parliamentary Assembly of the Council of Europe on April 23, 2013.

In my capacity as a professor of law and religion at KU Leuven I have been invited to offer members of the Parliamentary Assembly of the Council of Europe some reflections on religious freedom, state neutrality, public education, minors and parental rights against the background of the debate on the establishment of a European anti-sect initiative based on the French model of the fight on '*dérives sectaires*' (sectarian abuses) entrusted since 2002 to Miviludes, a 'mission interministérielle' within the office of the French Prime Minister.

In my short intervention, I would like to highlight some basic principles, which have emerged in European law, as a result of both the evolution of domestic laws and the development of a European human rights law through EU law and the European Convention of Human Rights. The following principles can be identified as appropriate guidelines for any further European developments in the field of religious freedom, state neutrality, public education, minors and parental rights.

1. No State discretion in assessing the legitimacy of beliefs. Articles 9 ECHR and 10 EU Charter of Fundamental Rights establish the right to freedom of thought, conscience and religion. The European Court of Human Rights has established and constantly held

that 'the right to freedom of religion as guaranteed under the Convention excludes any discretion on the part of the State to determine whether religious beliefs or the means used to express such beliefs are legitimate.' (ECtHR, *Manoussakis and ors v Greece*, 29 August 1996, at para 47). Freedom of thought, conscience and religion 'primarily protects the sphere of personal beliefs and religious creeds, i.e. the area which is sometimes called the *forum internum*. In addition, it protects acts which are intimately linked to these attitudes such as acts of worship or devotion which are aspects of the practice of a religion or belief in a generally recognised form' (ECommissionHR, *Vereniging Rechtswinkels Utrecht v The Netherlands*, 13 March 1986). By no means does European law allow for any form of control on beliefs in the *forum internum*.

2. Respect of religious diversity. European law respects and promotes diversity of religious as well as non religious worldviews (22 EU Charter of Fundamental Rights). No action can be positively taken in order to compel those who hold non-mainstream worldviews, be they religious or not, to conform to the worldview of the majority, be they religious or not. Law should be enforceable without requiring anyone to embrace or identify with any ideological or religious worldview. This applies irrespective of the church/state model adopted in the relevant country. An Orthodox country is not entitled to require citizens to embrace Orthodox Christianity or to become members of the national established church. A secular country is not entitled to require citizens to embrace any given secular worldview. Psychiatric assistance is no ground for forcing marginal believers into the fold. The European Court of Human Rights has condemned Spain for violation of article 5 ECHR (right to liberty and security) in the case of six Spanish who were forcibly transferred to a hotel by Catalan police officers and handed over to others to be 'deprogrammed' from their membership of a 'sect' of which they were alleged to be members, based on the denunciation by a Spanish anti-sect association (ECtHR, *Riera Blume and ors v Spain*, 14 October 1999).

3. Strict scrutiny of admissible restrictions to the expression of beliefs. A religious or non-religious belief in the *forum externum* can only be restricted subject to conditions set at article 9 n. 2 ECHR, which means insofar as limitations 'are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others'. The European Court of Human Rights has interpreted article 9 n. 2 as also implying a test aimed at assessing the proportionality of restrictions to freedom of thought, conscience and religion, or to any other fundamental right. According to the Court, 'every "formality", "condition", "restriction" or "penalty" imposed in this sphere [freedom of expression] must be proportionate to the legitimate aim pursued' (ECtHR, *Handyside v UK*, 7 December 1976, at para 49).

4. State's neutrality and impartiality. Irrespective of the church and state system adopted in the relevant country, the State has an obligation of neutrality and impartiality towards all beliefs. The European Court of Human Rights has established that 'the State's role as the neutral and impartial organiser of the practising of the various religions, denominations and beliefs is conducive to religious harmony and tolerance in a democratic society' (ECtHR, *Refah Partisi v Turkey*, 31 July 2001, at para 51).

5. Specialty of religion recognized for the sake of its protection and enhancement only. European law recognizes the specialty of religion only for the sake of its protection

and enhancement. This principle is embodied in Articles 9 ECHR, 10 EU Charter of Fundamental Rights and 17 TFEU and in the constitutional traditions common to the Member States of the EU (article 6 n. 3 TEU). The law can only single out religions and denominations or categories of religions and denominations for the purpose of enhancing their protection or in order to facilitate them (e.g. through registration enabling religious entities to own property or through measures combating discrimination, racism or hatred).

6. No religion-based discrimination. European law does not allow for discrimination based on religion (article 14 ECHR, 21 EU Charter of Fundamental Rights and 10 TFEU). In particular, public agents are not entitled to preliminarily identify a category of believers (or non believers) or beliefs in view of monitoring and interfering with the life and convictions of those who fall within the category, no matter how small the section of population, which is affected, or diverse from the rest of the population. Non-discrimination based on religion (article 14 ECHR, 21 EU Charter of Fundamental Rights and 10 TFEU) also translates into the prohibition to discriminate against believers and beliefs based on size or social relevance or degree of conformity to the majority. The European Court of Human Rights has concluded recently that there was no reasonable relationship of proportionality between a total ban on the applicant's right to access his child and the aim pursued, namely the protection of the best interest of the child. Consequently, the Court found that the applicant had been discriminated against on the basis of his religious convictions (as a member of a small faith community) in the exercise of his right to respect for family life, since he had been denied his access rights based on an expert opinion upheld by a domestic court according to which the applicant's 'irrational worldview made him incapable of bringing up his child'. (ECtHR, *Vojnity v Hungary*, 12 February 2013, at para 14).

7. Religion-related crimes are better repressed through general criminal law. No exception has been accepted so far to the principle that crimes or violations committed with an alleged religious motivation or under the cloak of religion are adequately repressed through general criminal law. Rather, the contrary has been established: that religious beliefs or customs are no excuse for violating the law, and that religious prerogatives cannot prevent State authorities from applying the law. Conscientious objection is regulated according to domestic and European law.

8. Religious autonomy. European Law recognizes 'religious autonomy' (see ECtHR, *Fernandez Martinez*, 15 May 2012, at para 80), which can be defined as the 'competence of religious communities to decide upon and administer their own affairs without governmental interference', and as 'a right of self-determination for religious groups' (W C Durham Jr, 'Religion and the World Constitutions' in S Ferrari, W C Durham Jr, C Cianitto and D. D. Thayer (eds), *Law, Religion, Constitution* (forthcoming Farnham: Ashgate, 2013). While the balance between the autonomy of religious groups, individual rights and the States' prerogatives is difficult to strike, the State has to refrain as much as possible from interfering with the self-determination of religious communities.

9. Parental religious rights. Article 2 Protocol 1 to the ECHR stipulates that 'in the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions'. In accordance,

European law respects the right of parents to raise children in a given worldview, be it religious or not. This right can be restricted only if children suffer or are likely to suffer an actual harm. Actual harm has to be strictly defined. As the European Court of Human Rights has clearly established, it is contrary to European law to rule '*in abstracto* and on the basis of general considerations, without establishing a link between the children's living conditions with their [parents] (...) and their real interests' (ECtHR, Palau-Martinez v France, 16 March 2004, at para 42. Also see ECtHR, Hoffmann v Austria, 23 June 1993). The debate remains open on the exact definition of the boundary between the autonomy of the parents and the State's right to interfere (as witnessed in the German debate on the parents rights in case of circumcision). However, the mere transmission within the family of a worldview, which differs from the worldview of the majority does not per se legitimize the State's interference in the interest of the children. As the European Court of Human Rights has made clear, a distinction between parents 'based essentially on a difference in religion alone is not acceptable' (ECtHR, Hoffmann v Austria, 23 June 1993, at para 36).

10. Objective, critical and pluralistic public school. As established by the ECtHR since 1976 and repeatedly reiterated, 'the State, in fulfilling the functions assumed by it in regard to education and teaching, must take care that information or knowledge included in the curriculum is conveyed in an objective, critical and pluralistic manner. The State is forbidden to pursue an aim of indoctrination that might be considered as not respecting parents' religious and philosophical convictions. That is the limit that must not be exceeded' (ECtHR, Kjeldsen, Busk Madsen and Pedersen v Denmark, 7 December 1976, at para 53). As a consequence, privacy of children and parents must be rigorously protected as far as their personal options and convictions are concerned, to the point that the European Court of Human Rights ruled against Poland that the refusal to participate in denominational religious instruction in a public school cannot be reported in a way that discloses indirectly the beliefs of a student or stigmatizes him (ECtHR, Grzelak v Poland, 15 June 2010). The principle is further articulated with regard to teaching about religions and beliefs in public schools in the 2007 *Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools* (Office for Democratic Institutions and Human Rights, ODIHR).

Leuven, April 19, 2013

Freedom of Conscience: Tensions between the State and religious minorities in regards to family issues

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As Rev. Keith Clements, general secretary of Conference of European Churches said: "Never was Europe so united, not only because of the enlargement of the European Union but also because Europe never had such concept of its unity". European Christians who are not united in faith are called upon to be an essential element for the new European unity and to give their spiritual contribution to building a United Europe.

Concerning new religious movements, in Central and Eastern Europe, and particularly in Bulgaria, the situation is different, as oppression against religions has prevented many non-mainstream religious bodies from establishing their legitimately functioning structures. In this sense, most of them are really a new social phenomenon for post-communist countries. The other question -- whether they are really religious, is much more complicated. These societies were not less secularized than the West and the appearance of new religious movements coincided with the opening of the societies towards greater freedom in all spheres of life. I place the new religious movements in Bulgaria within the secularization thesis.

The target topic of Protection of Human and Minority rights is about the promotion and strengthening of national and international human rights protection systems. Thus, of vital importance, is the respect for the internationally acknowledged ban on discrimination. Its global application regarding all minorities in the region, encompassing both ethnic minorities and other marginal groups of society, must be secured. An important part of this is the impact of accession to the European Union and the application of the European Convention on Human Rights.

Bulgarians regained religious freedom in 1989 after five decades of forced atheism under the communist totalitarian regime. The Bulgarian parliament passed a Denominations Law in 2002 which consolidated the dominant role of the Orthodox Church in this Balkan country. The bill, which defines Orthodox Christianity as a "traditional religion in Bulgaria", was initiated by the ruling party, the National Movement Simeon II, and was aimed at ending a schism within the Bulgarian Orthodox Church. The specific features of the Bulgarian situation may be summarized as peaceful co-existence of different religions along with compromises of the Orthodox Church. The historical conditions had laid the foundations for the appearance of many ethnic groups with specific religious commitments, which has normally been supported throughout the country's history by a certain degree of ethnic and religious tolerance.

One of the fruits of the post-totalitarian period in Bulgaria has been the rediscovery of the universal dimension of the human rights. As the Balkan nations grappled with the tasks presented by the development of modern society, they realized the extent to which the universal nature and mission of civil society had become obscured in most traditions in regards to a half-century of lasting atheistic and anti-human state policy.

Despite all typical post-communist features of church-going as a 'new fashion' or a symbolic ritual of political commitment, the different religious communities at last had the chance to express freely their specific beliefs and to undertake the first steps toward legitimate recognition.

This new awakening in the Bulgarian society was a result, in large measure, of the social changes of recent times. The international dimension has acquired increasing importance for the life and future of the individual nations. Bulgarian legislation gives the right to freely profess religious dogmas, traditions and customs of religious canons regulated places for this purpose.

Individual freedom has its limits in the freedom of others, thus a religiously polyvalent society must guarantee religious peace. It is the responsibility of public powers, civil society, traditional religious communities as well as those more recently created to find a *modus vivendi* that will permit justice and set aside discrimination.

All these arrangements under our Constitution are part of our law and therefore must be applied in Bulgarian public life. However, many minorities are not in practice guaranteed these rights. This demonstrates a coarse ideology, limited capacity and is symptomatic of the political issues that are at the essence of our inadequate democracy, symptomatic of a deeper social decline in the country.

We could continue with quotes from international standards, but let's move on to the national laws adopted by our politicians and statesmen.

Exporting the French anti-sect model is not suitable for a situation in Bulgaria where a mainstream religion is placed above the others. The exportation of the French model will lead in some countries, where the situation is not of "Church/State separation" to a reinforcement of religious intolerance. This will be also not in alignment with the national legislation of the Republic of Bulgaria where everything is crystal clear and the registered/recognized religions are equal before the law. The Constitution of the Republic of Bulgaria clearly gives a mechanism to build a democratic order:

Art. 6. (2) All citizens are equal before the law. There shall be no restriction of rights or privileges based on race, ethnicity, gender, national origin, religion, political affiliation, personal or social status or property status. Art. 13. (1) Religions are free.

Under the Law on Religions (Denominations Act) there was a strong emphasis on the rights for parents and guardians to provide religious education and training for their children in conformity with their own convictions.

The concepts of hate crimes and freedom of thought and expression should not be confused with one another. No freedom is unlimited in democratic societies. Rights and freedoms are limited to the point where other rights and freedoms start. It is stated in both international and national norms that freedom of expression is not infinite and limitless; it should be limited to a certain extent. It is necessary and obligatory that the legal system introduces instruments for defense against the danger arising from people provoked into hostility and hatred on the basis of difference. This obligation is of

particular importance in countries where society has a diverse, mosaic structure like Bulgaria and the other Balkan EU members- and non-member-countries.

The NRMs (New Religious Movements) were seen by many as a threat. In 1994 some changes were adopted in the Law of Persons and the Family -- article 133-A was introduced, requiring an approval from the Directorate of Religious Affairs of the Council of Ministers before legal registration of a religious organization. Some lawyers said that this was absurd, as it allowed administrative power to supercede legislation.

The year 2008 can be rightfully called “Year of Sects in Bulgaria” as various government representatives and news agencies participated in a nationwide “witch hunt” which they called “War on the Sects.” These actions were organized in a premeditated attack to discredit evangelical churches in Bulgaria, which were repeatedly called “dangerous sects” and “cults” regardless of their bicentennial history in the country. The strategically planned actions were taken in four major cities in Bulgaria in two consecutive chronological cycles throughout the year that were properly defined by independent observers as the “Sects and the City” series because of the maneuvers of some political nationalistic groups in cultivating history and discrimination against ethnic or religious minorities. This attack was tactically planned and carefully executed to discredit evangelical churches in the cities of Veliko Tarnovo, Bourgas, Plovdiv and Sofia and through this the Bulgarian Evangelical Movement as a whole. Although the “organizers” of this attack may never be known, one cannot afford to remain quiet when political organizations use media agencies to manipulate the public opinion away from the real socioeconomic problems of the country toward the evangelical churches through acts of discrediting that not only restrict religious freedom and personal liberty, but come close to acts of open oppression.

During the period of the seventies up to the nineties of the last century, Bulgaria became famous for what came to be known as the Bulgarisation of the Muslims in Bulgaria. During the same period, a number of crimes aimed at breaking the spirit and character of the minority community of Bulgarian Muslim were perpetrated. These measures were accompanied by oppressive methods and persecution which extended to killings, imprisonment, torture and banishment from the country. This reached its peak during the period between 1984-89. In order to put an end to the existence of Islam and the Muslims, the Bulgarian authorities expelled hundreds of thousands of Muslim Turks to Turkey. The number of those expelled in 1989 amounted to more than 300,000 in less than two months.

The majority of the Muslims in Bulgaria are Orthodox Sunni Muslims but many are Heterodox followers of sectarian movements and traditions of Islam typical for the Balkan Peninsula in general (Alevis, Kisilbash). The other very large ethnic minority in Bulgaria are the Gypsies who are Orthodox and Heterodox Muslims or Orthodox and Heterodox Christians mixing their religious rituals with some pagan beliefs and practices.

At the end of 2012, the MJ developed an Action Plan for the Implementation of the Concept for the State Policy in the Field of Juvenile Justice (2013-2020), which confirms the government's commitment to fully repeal the Act against Delinquency of Minors as being an outdated and ultimately repressive approach to juvenile justice. The effect of

these changes remains to be established. In this case even the Holy Orthodox Synod-Bulgarian Patriarchate published an Opinion on the draft text of the Law on Children (Prepared by the MLSP / MC voting in 41 of Bulgaria's National Assembly in 2012) fearing the problem in art. 23, which prohibits adolescents to engage in political, trade union and religious activities: *"The basis of the current proposals for changes in the draft law on children is our love and care for family Bulgarian parents and children who are both a fundamental fabric of Bulgarian society and, in for the most part, are members of the Bulgarian Orthodox Church"* - Bulgarian Patriarchate (Adopted by the Holy Synod in full strength with prot. № 20/21. 06. 2012, § 1): *"Our concern is due to the current spiritual, moral, economic, social, educational, personal and interpersonal problems that we face in raising and educating the current generation in Bulgaria and the many imperfections that exist in the public discussion concerning the draft law on children. Among them, a leading downward tendency has been to push the edge of legislative attention to the issue of custody and parental authority in the child's life. The Children's bill is currently on hold, left for the next government to accept it. A few months ago parents did protested this because they believe that the bill is anti-family. They demonstrated with banners that read "We are against the nationalization of our children."*

It is interesting to follow the arguments of the anti-cultists (consisting of parents' committees, nationalists, politicians and administrators -- they all use of the term 'sects' in its broad definition): they say that the NRMs are dangerous for national security; they create "socially abnormal personalities"; they are a foreign invasion; they come to Bulgaria as a result of "a geopolitical intervention of the world powers to destroy the uniqueness of Bulgarian culture"; they stimulate conscientious objection; some of them refuse blood transfusion; the fact that they are preparing teachers for kindergartens.

In the spirit of tolerance, society welcomes religious diversity. Each religious community, ancient or modern has the right to have its ideas and its actions honestly presented and protected from abusive comparison and defamation. If a group is challenged it will agree to provide enlightenment concerning its religious, social or financial activities; in return, challengers will concentrate only upon incriminating facts and refrain from all abusive generalizations or insidious allusions. Our responsibility demands that we take the modern state seriously since it can become a source of brutal repression, dehumanization and denial of basic humanity to individuals, as opposed to a force for social and economic justice, fundamental institutional reformation and a vehicle for human development.

Sofia, April 16, 2013

Freedom of Conscience: Tensions between the State and religious minorities in regards to family issues

Christian Paturel
Attorney at Law

I have been a lawyer defending human rights in France since the 1970s and I am also a Christian believer, a member of the Jehovah Witnesses. I have written many books on religious freedom.

One of them has been for me a source of many troubles. I have been attacked for facts that I wrote in this book by a French antireligious association. I lost the trial in first instance, then in appeal and also before the French Supreme Court. However, because I am a lawyer and quite persistent, I went before the European Court of Human Rights and only then, ten years after the publication of the book, in 2005, the European Court condemned France and restored the book and my reputation completely.

As a lawyer and also as a Jehovah Witness I could testify on hundreds of discrimination cases stemming from the French political attitude against religious minorities, but unfortunately, or fortunately for you, I do not have time to do it.

So I will concentrate on one specific case which is quite appropriate for our topic of today, a case that I know very well because it concerns discrimination against my own wife, Brigitte. This had a great impact on our family life and has lasted for many years.

Let me explain:

In 2006 my wife was working as a family assistant for the Public Administration in charge of social assistance. She had to take care of children who could not be with their family for various reasons, and normally for a limited period of time. The placement of the children with her was done by this Public Administration. She was very well regarded, had excellent results and the employer was very happy with her work. All the reports made on her by the controllers (who are in charge of making sure that the children receive appropriate care) were excellent.

Unfortunately, in France, there are “anti sect” associations which are totally funded by the French government. They organise hate campaigns against new religious movements which they call “sects”. These campaigns are often fully supported by many in the French institutions. One of their practices is to write “denunciation letters” on members of these religious movements to administrations, mayors, etc.

One day in August 2006 her employer ‘found out’ that my wife was a Jehovah Witness and wrote a letter to her saying that this undermines her job prerequisites. A few hours later, two children who were in her custody were removed abruptly from our home. You can imagine not only the shock for my wife but also for the children who removed from their family home.

Brigitte then started to be victim of ‘moral’ harassment by the administration. In December, three individuals started a “social investigation” into my wife. Since August, my wife was no longer in charge of any child (solely for the reasons mentioned above) whilst before August

she had only good reports about her. The three people in charge of investigating her could not find anything against her, so they fabricated something in order to be able to substantiate the claims against her (as will be shown later).

My wife was then interrogated by the administration. In one of the interrogatory, the Chief of her service said: "at least, if you were a Catholic, it could be acceptable, but a Jehovah Witness..."

My wife never did any proselytism and the children were always kept apart from our own religious convictions, in order to respect them and their family's beliefs. The inspector then blamed Brigitte for not being able to provide a proper religious life for the children. This obviously means that if she had proselytized to the children she would have been blamed for it, but because she did not proselytize, she was also blamed!

In March 2007 (two thousand seven), my wife was definitely dismissed without any additional reasoning than it was due to her beliefs. So, because I am a lawyer, I took legal action and

demonstrated that Brigitte's case was discriminatory for reasons of religious beliefs. The administration, her former employer, was then forced to cancel the dismissal and reintegrate Brigitte and apologize to her. An agreement was signed between the parties and Brigitte withdrew her full legal action in September 2007.

In January 2008, three months after the agreement was signed, the administration started a new process of dismissal against Brigitte. My wife was dismissed a second time for the same reasons, on religious grounds, after a long process, on the 8th August 2010.

So we went back to court and got the dismissal cancelled by the Administrative Court of Rouen on the 2 April 2010. However, despite this cancellation, the President of the General Council, who was in charge of the administration of the Region, refused to reintegrate her.

So now we had to bring the President to the Administrative Court and the General prosecutor, who consequently intervened to force her reintegration, per the law, ten months after this second dismissal.

Then, in June 2011, the French Ombudsman made a judgment stating that Brigitte has been victim of a discrimination forbidden by articles 9 and 14 of the European Convention on Human Rights.

You might think that this would be a happy end to these endless discriminations.

But learning the decision of the Ombudsman, the President of the General Council decided to once again dismiss Brigitte. A third time, still without any valid reason, solely because she is a Jehovah Witness.

At this point, we decided not to try to get a cancellation of the dismissal, but to file a criminal complaint, which is still ongoing.

We have so many evidences of discrimination and moral harassment on the ground of religious beliefs that we will win beyond any doubt.

Unfortunately, this example is only one of hundreds that occur in France each year, and each wife does not have a husband who is also a lawyer. Losing your job because you are labeled as a member of a “wrong” religion is a very difficult ordeal for any citizen. When this ordeal continues year after year, it can lead to severe depression. Some who are weaker have even committed suicide, thinking that there was no way out in the face of such discrimination. It is also a tremendous ordeal when this is accompanied by the stigmatization of your beliefs at the level of the national government.

When politicians start to push a policy against certain minorities, whether they call them “sects” or “cults”, as is done in France, it leads to families torn apart and to ruined lives.

We, as citizen of European countries, place our hope in institutions like the Council of Europe, which has been designed to protect the fundamental rights of individuals. So it is important to keep that in mind, when some people try to instrumentalise the Parliamentary Assembly, in order to push their own agenda and to export the French model to Europe. It is not just a theoretical issue. It is an issue which has effects on people’s lives, and has been proven to destroy the freedom of people, to destroy hope, to destroy families, children’s lives and this is what we need to protect.

Paris, April 20, 2013



